

EN BANC

[G.R. Nos. 191299-191302. March 14, 2023]

HERMAN ANTONIO M. BASCON AND ANTONIO VILLAMOR, PETITIONERS, VS. EMILIANO O. NEGRE, JR. JULIA F. PONTRIVIDA, EVELYN F. NEGRE, JOSELITO Q. MULLE, RIDEN J. ILOSORIO, FELICIANO C. FERNANDEZ, RENATO C. DUCAY, VILLAMOR B. VILLAESTER, ZANDRO N. VILLAESTER, RENATO O. TOLING, BERNADETTE S. OFIANGA, RENATO G. NEGRE, VEVIEN T. SENTE, CHARLIE F. SANTILLAN, EDMUND A. LEGASPINO, MERCELA S. INDINO, EDGARDO D. ILOSORIO, ROGELIO D. ILOSORIO, RENANTE D. ILOSORIO, LYDIO L. GIGANTO, GILBERTO O. FERNANDEZ, FERNANDO O. MULLE, ADELMO M. MARU, DAMASO D. MANSUETO, MARIA GRACE O. LORCA, ALEX D. LORCA, AILEEN O. LORCA, MARCELINO C. VILLARINO, JR., ROQUE M. VILLAESTER, LEONORA C. VILLAESTER, NOEL A. VILLACERAN, JULIO Z. VILLACERAN, FRANCISCA N. TOLING, IRENE V. SOLLANO, MARILYN G. SANTILLAN, DAVITA P. SANTILLAN, JOSELITO A. SANTILLAN, DOMINADOR A. SANTILLAN, LEIZEL G. SANTILLAN, JUPETER A. REBUSIT, ZALDY A. PONTRIVIDA, ZACARIAS J. PONTRIVIDA, ROQUE F. PONTRIVIDA, LUCAS J. PONTRIVIDA, BERNABE J. PONTRIVIDA, JUVY F. PONTRIVIDA, JUVEN D. PANTALEON, ROSARIO F. PANTALEON, ELINO I. OFLAS, RESURRECCION M. OFLAS, RAMIL P. OFIANGA, GREGORIO S. NEGRE, BHIBLE S. MIRANDA, MILDRED S. MIRANDA, ROMEO C. MIRANDA, LEONARDO A. MATA, BEBOT O. MAROLLANO, ALLAN B. MAROLLANO, BENJI A. MARANGGA, ROMMEL A. MANSUETO, JESUS P. MANSUETO, ROLANDO L. LAMBONAO, EUSEBIO A. JISTA, VIOLETO M. INOY, ANTONIO S. ILUSTRISIMO, RANILO R. GORIA, MICHELLE L. GIRRAN, RENANTE D. GILBUELA, MARIA ELENA E. GILBUELA, CELESTINO K. GILBUELA, EDUARDO S. GILBUELA, JOEL P. GIGANTO, AGUSTIN Q. FERNANDEZ, ZOSIMO Y. FERNANDEZ, JOVANI C. FERNANDEZ, JESUS D. FERNANDEZ, JENIFER C. FERNANDEZ, PAULINO Y. FERNANDEZ, DOMINADOR M. FERNANDEZ, JEONY M. ENRIQUEZ, ABDON A. EBEN, ROMEO K. DUCAY, ISIDRO M. DUCAY, BENJAMIN K. DUCAY, JULIO K. DUCAY, JUAN M. DESTURA, ASTERIO O. CORDOVA, JOEBE S. CORDOVA, MARIO M. CORDOVA, MARVIN M. CORDOVA, REYELL E. CORDOVA, JULITO M. CERNAL, ALBERTO B. CENA, ALFONSO A. CARANZO, PIO S. CAPURAS, EDUARDO S. CAPURAS, JOEL S. CAPORAS, SANTIAGO S. CAÑETE, MAXIMINO T. BRION, RODELIZA E. BOOC, ANTONIO P. BIACA, ROLLY A. BAYON-ON, DANILO V. BAWIGA, MARCELINO J. BARCELO, DANNY BOY V. BACIA, FELIX A. ATON, SANDY S. AMADEO, ALFIE A. AMADEO, RUEL C. ALONTAGA, EMILIA L. ALOLOR, ALLAN T. ALOLOD, PEDRIO S. ALOB, ADRIAN O. ALOB, ROQUE O. ALOB, JOEL O. ALOB, RAFAEL O. ALOB, ELIEZAR A. ALIGATO, MELVIN M. ALIGATO, LEONARDO P. ABAIS, ANTHONY G. YBAÑEZ, EDMOND C. VILLARANTE, ROQUE M. TUMABIENE, SR., PEDRO B. TINGA, JR., MIGUEL S. TINGA, EDGAR E. SOLANO, PEDRO T. SANTILLAN, MARIO V. SANTILLAN, ERNESTO P. SANTILLAN, JOSELITO C. PACINA, EDGARDO S. OFIANGA, GINES H. NUNEZ, JR., MIGUEL D. NEMENZO, HILARIO S. NEGRE, WILLY D. NEGRE, RANDY S. NECESARIO, JUMAR A. LABORES, ROGELIO F. CANAMA, GENELYN L. CANAMA, ARTURO C. BESABELLA, MARLOVITA URSAL, DR. OSCAR S. ROMANILLOS, AND

ENGR. UBALDO CANETE, JR., AND OF THE ELECTION REGISTRATION BOARD OF MUNICIPALITY OF SAN REMIGIO, CEBU, RESPONDENTS.

R E S O L U T I O N

HERNANDO, J.:

Challenged in this Petition^[1] is the January 15, 2010 Decision^[2] of the Regional Trial Court (RTC), Branch 61 of Boggo, Cebu in SP. Proc. Case Nos. BOGO-02233, 02234, 02235 and 02236, which affirmed *in toto* the three separate Decisions^[3] dated December 18, 2009 of the 3rd Municipal Circuit Trial Court (MCTC), Medellin-Daanbantayan-San Remigio, Cebu in Spec. Proc. Nos. 520-SR, 521-SR, 522-SR and 523-SR, which found the 153 private respondents qualified to register as voters, and approved their respective applications for registration as new voters of Barangay (Brgy.) Punta, San Remigio, Cebu.

The Antecedents

On December 4, 2009, petitioners Herman Antonio M. Bascon (Bascon) and Antonio Villamor (Villamor; collectively petitioners) filed a petition^[4] before the MCTC to exclude herein respondents as voters of Brgy. Punta, San Remigio, Cebu in Precinct Nos. 0113A, 0112B, 0115B, and 0114A. Petitioners Bascon and Villamor asserted that respondents' alleged residency in Brgy. Punta, San Remigio, Cebu is not sufficient to register them as voters of the said barangay. They claimed that the respondents were merely transient workers of a fishing business owned by the Olivar family, whose family member, Jay Olivar, was running as municipal mayor of San Remigio, Cebu at that time.^[5] They further alleged that respondents were merely using their employer's bunk house as communal and temporary sleeping quarters whenever the fishing vessels were docked at the San Remigio port. They insisted that respondents and their respective families were actually residents of either the municipalities of Bantayan, Sta. Fe and Madrideojos.^[6]

On the other hand, respondents alleged that they are qualified voters of Brgy. Punta, San Remigio, Cebu.^[7] To support their contention, respondents submitted their respective certificates of employment and community tax certificates, a certification dated December 14, 2009 issued by Alfredo C. Hilari, Sr., the Punong Brgy. of Punta, San Remigio, Cebu, and the Minutes of the Election Registration Board (ERB) Proceedings dated July 20-21, 2009.^[8]

Ruling of the Municipal Circuit Trial Court

On December 18, 2009, the MCTC rendered its Decision^[9] which: (a) denied petitioners' petition for exclusion against respondents; (b) affirmed the respondents' voters' application and registration as found by the ERB of the Municipality of San Remigio, Cebu; and (c) allowed the respondents to vote in the precincts where they were assigned and registered. The dispositive portion of which reads:

WHEREFORE, premises considered, the Court is inclined to deny the Petition for Exclusion and hereby approve; affirm the voters' application and registration by the Election Registration Board of the Municipality of San Remigio, Cebu and allow the respondents to vote in the precincts where they were assigned and registered.

SO ORDERED.^[10]

Ruling of the Regional Trial Court

On appeal, the RTC affirmed the MCTC's December 18, 2009 Decision in its January 15, 2010 Decision.^[11] The dispositive portion of which reads:

WHEREFORE, premises considered, the appeal is hereby DISMISSED. The Decision dated December 18, 2009 of the 3rd Municipal Circuit Trial Court, Medellin-Daanbantayan-San Remigio, Cebu in four cases, is hereby **AFFIRMED EN TOTO**.

SO ORDERED.^[12] (Emphasis supplied)

The RTC ruled that factual findings of the ERB which are based on its own assessments and duly supported by evidence are conclusive upon the court. The records and documents of registration showed to be regular and duly supported by the necessary documents to register the respondents as qualified voters of Brgy. Punta, San Remigio, Cebu after proper hearing.

Hence, this petition for review on *certiorari* under Rule 45.

Issue

The sole issue presented before this Court is whether respondents, who are employees of a candidate running for public office, and temporarily using their employer's bunk house as residence, may register as qualified voters of Brgy. Punta, San Remigio, Cebu.

Petitioners' Arguments

Petitioners argue that the RTC cannot simply rely on the findings of the ERB as the evidence presented by them sufficiently showed that the respondents are not actual residents of Brgy. Punta, San Remigio, Cebu.^[13] They point out that the son of ERB Chairman Crisol Ursal was running for municipal councilor under the same party as the respondents' employer's family member, Jay Olivar.^[14] Such fact should have apprised the ERB and the trial courts to carefully evaluate the respondents' applications for registration to avoid suspicion of bias and partiality.^[15]

Furthermore, mere allegations of residency in a barangay is not sufficient to register respondents as voters of Brgy. Punta, San Remigio, Cebu.^[16] Respondents do not reside in the said barangay as they merely use their employer's bunk house as communal and temporary sleeping quarters whenever they are not at sea.^[17] Ramie D. Rosellosa's (Rosellosa) testimony, a former driver and boat crew member of the Olivar family, clearly proves that respondents are not residents of Brgy. Punta, San Remigio, Cebu.^[18]

Petitioners insist that the trial courts should have conducted an ocular inspection of the respondents' alleged residential dwelling in Brgy. Punta, San Remigio, Cebu to determine and settle if indeed respondents actually lived in the said barangay.^[19] The certificates of employment presented by respondents are not considered as proof of their residency in the said barangay.^[20] In addition, the community tax certificates have little or no value as anybody can secure it from any locality they want.^[21] Also, the certification issued by then barangay captain of Brgy. Punta, San Remigio, Cebu is self-serving and unreliable as the former is a close political ally of the Olivar family.^[22]

Respondents' Position

The petition should be dismissed outright for failure of the petitioners to attach the certified true copies of the following: (a) petitions for exclusion of voters filed before the MCTC; (b) petitioners' memorandum; (c) the assailed Decisions (d) the notice of appeal; (e) the affidavits; (f) certificate of candidacy; (g) formal entry of appearance with comment filed by

Atty. Valeriano S. Loon; (h) certificates of employment; (i) community tax certificates; and (j) certification issued by Brgy. Captain of Brgy. Punta, San Remigio, Cebu.^[23]

Respondents also argue that the petition does not involve a pure question of law as required under Rule 45 of the Rules of Court. The factual findings of the ERB and the trial courts were based on its own assessments of the evidence presented to determine if the respondents were indeed qualified as voters of the subject barangay.^[24] The ERB's act and performance of its duties and functions to determine the qualifications of applicants to register as voters bear the stamp of regularity and conclusive upon the court.^[25]

The issue raised by petitioners, *i.e.*, whether a sea-faring worker who temporarily stays in his or her employer's bunkhouse whenever they are not at sea is considered for election registration purposes a resident of the barangay where the bunkhouse is located, is a factual issue.^[26] Petitioners must first prove and establish respondents' alleged temporary dwelling, *i.e.*, the employer's bunkhouse, in Brgy. Punta, San Remigio, Cebu which is obviously a question of fact and not within the ambit of Rule 45.^[27] There is no declaration at all nor finding of fact that they are temporary residents of their employer's bunkhouse located in Brgy. Punta, San Remigio, Cebu.^[28] Finally, petitioners availed of the wrong remedy by filing the present petition under Rule 45 instead of a petition for *certiorari* under Rule 65 before the Court of Appeals.^[29]

Our Ruling

After a careful consideration, We find the petition unmeritorious.

A petition for review under Rule 45 is limited only to questions of law. Factual questions are not the proper subject of an appeal by *certiorari*.^[30] Thus, this Court will not review facts, as it is not Our function to analyze or weigh all over again evidence already considered^[31] in the below proceedings of the courts *a quo* as well as by the ERB, the government body tasked to act on all applications for registration. As held in *General Mariano Alvarez Services Cooperative, Inc. v. National Housing Authority*,^[32] “[a] question of law arises when the doubt or difference exists as to what the law is on a certain state of facts, while a question of fact exists when the doubt or difference arises as to the truth or falsity of the alleged facts,” to wit:

In any case, GEMASCO raises issues that are factual in nature. As a general rule, the Court's jurisdiction in a Rule 45 petition is limited to the review of pure

questions of law. Negatively put, Rule 45 does not allow the review of questions of fact because the Court is not a trier of facts. A question of law arises when the doubt or difference exists as to what the law is on a certain state of facts, while a question of fact exists when the doubt or difference arises as to the truth or falsity of the alleged facts. **The test in determining whether a question is one of law or of fact is whether the appellate court can resolve the issue raised without reviewing or evaluating the evidence, in which case, it is a question of law.** Any question that invites calibration of the whole evidence, as well as their relation to each other and to the whole, is a question of fact and thus proscribed in a Rule 45 petition.^[33] (Emphasis ours.)

Petitioners contend that herein respondents merely occupy their employer's bunk house which connote that they are not actual residents of Brgy. Punta, San Remigio, Cebu, and therefore cannot be considered as voters therein. However, a perusal of the facts found by the courts *a quo* shows that such allegation was not proved as a fact.

Petitioners mainly anchor their claim that herein respondents are not *bona fide* residents of Brgy. Punta, San Remigio, Cebu on the Sworn Statement^[34] of Veneranda G. Sinagpulo (Sinagpulo), Antonio I. Rosellosa (Rosellosa), Amado C. Asingua (Asingua) and Violeta Morados (Morados); and the Affidavit^[35] of Rosellosa that these respondents do not have actual houses in the barangay and municipality where they intend to register as voters.

To refute these, respondents presented their certificates of employment, community tax certificates and a certification from Punong Brgy. of Brgy. Punta, San Remigio, Cebu, that they are actual residents of the said barangay.

As between the allegations of petitioners and respondents, the MCTC, as affirmed by the RTC, ruled in favor of the respondents and granted their respective applications for registration. In correctly ruling so, the courts *a quo* gave credence to: (a) respondents' declaration in their respective applications for registration that they are *bona fide* residents of the said barangay for many years; (b) the fact of their employment in the said locality; and (c) the certification of the punong barangay that they are residents of the said barangay.

Further, as pointed out by Associate Justice Amy C. Lazaro-Javier, respondents' evidence in item (c) above is already and by itself a strong refutation of petitioners' allegations. In *Sabili v. Commission on Elections*,^[36] it was held that a certification of actual residency issued by a

barangay captain is allotted much consideration for its probative value under our rules of procedure. Sec. 44, Rule 130 of the Rules of Court provides:

SEC. 44. *Entries in official records.* — Entries in official records **made in the performance of his duty by a public officer of the Philippines**, or by a person in the performance of a duty specially enjoined by law, are *prima facie* evidence of the facts therein stated. (Emphasis supplied)

By the very mandate of their public office, the *punong* barangay knows their residents and all those who are covered under their territorial jurisdiction. The head of the barangay is also necessarily and immediately privy to records and information concerning all constituents of their local government unit. The *punong* barangay's certification is a compelling proof of one's actual residence, not only because it enjoys the presumption that it has been regularly issued in the performance of the *punong* barangay's public functions, but for the reason that the *punong* barangay practically oversees all the goings-on within their respective areas of government.

Petitioners elevate the case before this Court *via* a petition for review on *certiorari* under Rule 45, asserting as if it is the truth that herein respondents merely occupy their employer's bunk house as their temporary residence, and urging this Court to rule on the purported question of law, *i.e.*, whether an employee who temporarily resides in his or her employer's bunk house can register as a voter in the barangay and municipality/city where the bunk house is located. To stress, there is nothing on the records or findings of the courts *a quo* as regards the veracity of this alleged employer's bunk house.

Petitioners would want this Court to review and evaluate all over again the evidence already considered and presented before the courts *a quo* just to ascertain the truth and falsity of the alleged residence of respondents, *i.e.*, the employer's bunk house. In fact, petitioners moved for the actual inspection of this alleged employer's bunk house before the courts *a quo*. To note, petitioners have the burden of proof to substantiate their own assertion, that is, herein respondents are not actual residents of Brgy. Punta, San Remigio, Cebu. It is not the court's duty to investigate on its own in support of the petitioners' cause and to prove petitioners' allegations. It is a basic evidentiary rule that the burden of proof is on he or she who alleges, and he or she who relies on such an allegation as his or her cause of action should prove the same.^[37] Sec. 1, Rule 131 of the Rules of Court states that:

SECTION 1. *Burden of proof.* — Burden of proof is the duty of a party to present evidence on the facts in issue necessary to establish his claim or defense by the amount of evidence required by law.

It is also worth emphasizing that petitioners requested for the actual inspection of the bunk house in issue. This is an indication that petitioners themselves are second-guessing their own factual grounds.

It is incumbent upon petitioners to prove their assertion that indeed respondents are not actual residents of Brgy. Punta, San Remigio, Cebu. However, based on the evidence presented by both petitioners and respondents, We hold that petitioners failed to discharge their burden of proof. The Sworn Statement^[38] of Sinagpulo, Rosellosa, Asingua and Morados and the Affidavit^[39] of Rosellosa did not categorically establish where respondents' residence are. Nor did said piece of evidence conclusively prove that the respondents are domiciled someplace else other than in Brgy. Punta, San Remigio, Cebu as they declared in their applications for registration. To reiterate, petitioners' assertion that the respondents merely occupy their employer's bunkhouse was not sufficiently proved based on the evidence on record. Indeed, as between petitioners' bare allegations and respondents' declaration in their application for registration, certificates of employment and certification of the *punong* barangay, the latter are able to justify and substantiate the residency requirement to qualify as voters of a city or municipality as per Sections 9 and 10 of Republic Act No. (RA) 8189,^[40] otherwise known as the Voter's Registration Act of 1996, to wit:

SECTION 9. *Who May Register.* — **All citizens of the Philippines not otherwise disqualified by law who are at least eighteen (18) years of age and who shall have resided in the Philippines for at least one (1) year and in the place wherein they propose to vote for at least six (6) months immediately preceding the election, may register as a voter.**

Any person who temporarily resides in another city, municipality or country solely by reason of his occupation, profession, employment in private or public service, educational activities, work in the military or naval reservations within the Philippines, service in the Armed Forces of the Philippines, the National Police Forces, or confinement or detention in government institutions in accordance with law, shall not be deemed to have lost his original residence.

Any person, who, on the day of registration may not have reached the required age or period of residence but who, on the day of the election shall possess such qualifications, may register as a voter.

SECTION 10. *Registration of Voters.* — A qualified voter shall be registered in the permanent list of voters in a precinct of the city or municipality wherein he resides to be able to vote in any election. To register as a voter, he shall personally accomplish an application form for registration as prescribed by the Commission in three (3) copies before the Election Officer on any date during office hours after having acquired the qualifications of a voter.

The application shall contain the following data:

- a) Name, surname, middle name, and/or maternal surname;
- b) Sex;
- c) Date, and place of birth;
- d) Citizenship;
- e) Civil status, if married, name of spouse;
- f) Profession, occupation of work;
- g) Periods of residence in the Philippines and in the place of registration;
Exact address with the name of the street and house number for
- h) location in the precinct maps maintained by the local office of the Commission, or in case there is none, a brief description of his residence, *sitio* and barangay;
- i) A statement that the applicant possesses all the qualifications of a voter;
- j) A statement that the applicant is not a registered voter of any precinct; and
- k) Such information or data as may be required by the Commission.

The application for registration shall contain three (3) specimen signatures of the applicant, clear and legible rolled prints of his left and right thumbprints, with four (4) identification size copies of his latest photograph, attached thereto, to be

taken at the expense of the Commission.

Before the applicant accomplishes his application for registration, the Election Officer shall inform him of the qualifications and disqualifications prescribed by law for a voter, and thereafter, see to it that the accomplished application contains all the data therein required and that the applicant's specimen signatures, fingerprints, and photographs are properly affixed in all copies of the voter's application.

With petitioners' failure to prove the fact that respondents reside in their employer's bunk house, there is no point for this Court to rule on the alleged question of law posed by petitioners, *i.e.*, whether an employee who temporarily resides in his or her employer's bunk house can register as a voter in the barangay and municipality/city where the bunk house is located.

Neither did petitioners submit before this Court that the present petition is within the exceptions, namely:

(1) When the conclusion is a finding grounded entirely on speculation, surmises or conjecture (*Joaquin v. Navarro*, 93 Phil. 257 [1953]; (2) When the inference made is manifestly mistaken, absurd or impossible (*Luna v. Linatok*, 74 Phil. 15 [1942]; (3) Where there is a grave abuse of discretion (*Buyco v. People*, 95 Phil. 453 [1955]; (4) When judgment is based on a misapprehension of facts (*Cruz v. Sosing*, L-4875, Nov. 27, 1953); (5) When the findings of fact are conflicting (*Casica v. Villaseca*, L-9590 Ap. 30, 1957; unrep.);* (6) When the Court of Appeals, in making its findings, went beyond the issues of the case and the same is contrary to the admissions of both appellant and appellee (*Evangelista v. Alto Surety and Insurance Co.*, 103 Phil. 401 [1958]; (7) The findings of the Court of Appeals are contrary to those of the trial court (*Garcia v. Court of Appeals*, 33 SCRA 622 [1970]; *Sacay v. Sandiganbayan*, 142 SCRA 593 [1986]);* (8) When the findings of fact are conclusions without citation of specific evidence on which they are based (*Ibid.*); (9) When the facts set forth in the petition as well as in the petitioners' main and reply briefs are not disputed by the respondents (*Ibid.*); and (10) The finding of fact of the Court of Appeals is premised on the supposed absence of evidence and is contradicted by the evidence on record (*Salazar v. Gutierrez*, 33 SCRA 242 [1970]).^[41]

Besides, even granting that the issue presented is within the exceptions, We still hold that herein respondents substantially established their residency requirement, *i.e.*, at least one year in the Philippines and at least six months in the place wherein they propose to vote immediately preceding the election. At most, the sworn statement and affidavit presented by petitioners tended to prove that respondents are employees of the Olivar family and that they temporarily use their employer's bunk house after work. However, these declarations did not conclusively prove that respondents' residence for at least six months prior to election is other than Brgy. Punta, San Remigio, Cebu.

Also, property ownership is not among the qualifications for one to qualify as a voter in a city or municipality. A voter may be staying in a place as a lessee, in a certain gratuitous living arrangement, or in some other capacity other than that as a property owner, but such circumstances do not make such voter any less of a resident in such area. It is enough that respondents actually resided in the said barangay and municipality^[42] for the required period. To require property ownership would imply that only the landed can establish compliance with the residency requirement.^[43] In practicality, respondents' physical presence in Brgy. Punta, San Remigio, Cebu is justified by their employment therein. Thus, it is not absurd nor fraudulent for these respondents to register as voters of Brgy. Punta, San Remigio, Cebu despite petitioners' allegations that they merely occupy their employer's bunk house. Again, no sufficient evidence was presented to support such contention.

Moreover, respondents' declaration in their application for registration confirms their intention to establish their residence in Brgy. Punta, San Remigio, Cebu as their residence or domicile. Petitioners failed to establish the fact that these respondents were indeed domiciled in some other municipality or city. Mere allegation that the respondents are residents of other nearby municipalities is not worthy of consideration before courts of law without evidence to prove the same.

Lastly, petitioners' contention that the respondents are only compelled to register as voters of Brgy. Punta, San Remigio, Cebu by their employer, whose family member Jay Olivar was running for public office at that time, lacks factual basis. Petitioners' imputation of bias against a member of the ERB, whose son was in the same party as Jay Olivar, likewise lacks factual basis. Again, said allegations of fraud and/or accusations would remain as such without sufficient proof to prove it. Hence, We cannot accord credence to petitioners' contention that herein respondents are not qualified to be registered voters of Brgy. Punta, San Remigio, Cebu. Petitioners failed to present a convincing case sufficient to show that respondents are not actual residents of Brgy. Punta, San Remigio, Cebu for at least six

months immediately preceding the election at that time.

WHEREFORE, the petition is **DENIED** for lack of merit. The January 15, 2010 Decision of the Regional Trial Court, Branch 61 of Bogu, Cebu in SP. Proc. Case Nos. BOGO-02233, 02234, 02235 and 02236 is hereby **AFFIRMED**.

SO ORDERED.

Gesmundo, C.J., Leonen, S.A.J., Caguioa, Inting, Zalameda, M. Lopez, Gaerlan, Rosario, J. Lopez, Dimaampao, Marquez, Kho, Jr., and Singh, JJ., concur.
Lazaro-Javier, J., please see concurrence.

^[1] *Rollo*, pp. 3-17.

^[2] *Records*, pp. 105-122. Penned by Executive Presiding Judge Antonio D. Marigomen.

^[3] *Id.* at 55-76. Penned by Circuit Judge Cornelio T. Jaca.

^[4] *Id.* at 9-16.

^[5] *Id.* at 10.

^[6] *Id.*

^[7] *Id.* at 29.

^[8] *Id.* at 37-44.

^[9] *Id.* at 55-76.

^[10] *Id.* at 65 and 76.

^[11] *Id.* at 105-122. (Emphasis supplied)

^[12] *Id.* at 122.

^[13] *Rollo*, p. 8.

^[14] *Id.* at 8-9.

^[15] *Id.* at 9.

^[16] *Id.*

^[17] *Id.*

^[18] *Id.* at 9-10.

^[19] *Id.* at 10.

^[20] *Id.* at 11.

^[21] *Id.*

^[22] *Id.*

^[23] *Id.* at 90-91.

^[24] *Id.* at 91.

^[25] *Id.*

^[26] *Id.* at 92.

^[27] *Id.*

^[28] *Id.*

^[29] *Id.* at 93-94.

^[30] **Miro v. Vda. de Erederos**, 721 Phil. 772, 785 (2013).

^[31] *Id.*

^[32] **General Mariano Alvarez Services Cooperative, Inc. v. National Housing Authority**, 753 Phil. 353, (2015).

^[33] *Id.* at 359.

^[34] *Rollo*, p. 84.

^[35] *Id.* at 85-86.

[36] 686 Phil. 649 (2012).

[37] See **MOF Company, Inc. v. Shin Yang Brokerage Corporation**, 623 Phil. 424, 436 (2009).

[38] *Rollo*, p. 84.

[39] *Id.* at 85-86.

[40] Entitled “AN ACT PROVIDING FOR A GENERAL REGISTRATION OF VOTERS, ADOPTING A SYSTEM OF CONTINUING REGISTRATION, PRESCRIBING THE PROCEDURES THEREOF AND AUTHORIZING THE APPROPRIATION OF FUNDS THEREFOR.” Approved: June 11, 1996.

[41] **Medina v. Asistio, Jr.**, 269 Phil. 225, 232 (1990).

[42] **Jalover v. Osmeña**, 743 Phil. 825 (2014).

[43] *Id.* at 841.

CONCURRENCE

LAZARO-JAVIER, J.:

The *ponencia* pronounces that petitioners Herman Bascon and Antonio Villamor (petitioners) failed to prove that respondents Emiliano Negre, *et al.* (respondents) reside in their employer’s bunk house. Thus, there is no point to rule on the alleged question of law posed by petitioners, *i.e.* whether an employee who temporarily resides in his or her employer’s bunk house can register as a voter in the barangay, municipality, or city where the bunk house is located.

The *ponencia* likewise underscores that property ownership is not among the qualifications enumerated under the law to be qualified as a voter in a city or municipality. The petition to exclude respondents as voters of Barangay Punta, San Remigio, Cebu, therefore, has no leg to stand on.

I agree with the well-written *ponencia* of my esteemed colleague Associate Justice Ramon

Paul Hernando. May I, nonetheless, humbly expound my concurrence why respondents' registration as voters should be maintained.

Section 1, Article V of the 1987 Constitution provides that suffrage may be exercised by (1) all citizens of the Philippines; (2) not otherwise disqualified by law; (3) at least 18 years of age; and (4) residents of the Philippines for at least one year in the place where they propose to vote and at least six months immediately preceding the election. The qualifications to vote are the same as the requisites for registration as a voter.

Meanwhile, Section 11 of Republic Act No. 8189 or the Voter's Registration Act provides the instances where a person is disqualified from registering, thus:

Section 11. Disqualification. The following shall be disqualified from registering:

a) Any person who has been sentenced by final judgment to suffer imprisonment of not less than one (1) year, such disability not having been removed by plenary pardon or amnesty: Provided, however, That any person disqualified to vote under this paragraph shall automatically reacquire the right to vote upon expiration of five (5) years after service of sentence;

b) Any person who has been adjudged by final judgment by a competent court or tribunal of having committed any crime involving disloyalty to the duly constituted government such as rebellion, sedition, violation of the firearms laws or any crime against national security, unless restored to his full civil and political rights in accordance with law: Provided, That he shall automatically reacquire the right to vote upon expiration of five (5) years after service of sentence; and

c) Insane or incompetent persons declared as such by competent authority unless subsequently declared by proper authority that such person is no longer insane or incompetent.

Notably, the act of registering is only one step towards voting. One may be a qualified voter without exercising the right to vote. Registering does not confer the right; it is only a condition precedent to the exercise of the right.^[1]

Here, I agree that petitioners' action for exclusion as registered voters against respondents lacks: 1) factual basis and 2) sufficient evidence to support their cause.

First. Petitioners' allegation that respondents merely occupy their employer's bunk house was not proven as a fact. Petitioners even requested for the actual inspection of the bunk house of respondents' employer before the courts *a quo*. This shows that petitioners are

second guessing their own contention. As pointed out in the *ponencia*, it is not the Court's duty to investigate the veracity of petitioners' allegations to support the latter's cause. More, the resolution of this particular question of fact is not proper in a petition for review under Rule 45 of the Rules of Court.

Second. Respondents presented as evidence a Certification from Barangay Chairman Alfredo Hilari (Barangay Chairman Hilari) of Punta, San Remigio, Cebu attesting that they are actual residents of the said Barangay.

In *Sabili v. Commission on Elections, et al.*,^[2] the Court held that a Certification of Actual Residency issued by a Barangay Captain is not only admissible in evidence but also entitled due consideration. Rule 130, Section 44 of the Rules of Court provides:

SEC. 44. *Entries in official records.* — Entries in official **records made in the performance of his duty by a public officer** of the Philippines, or by a person in the performance of a duty specially enjoined by law, are *prima facie* evidence of the facts therein stated. (Emphasis supplied)

Indubitably, it is the business of a Punong Barangay to know who the residents are in his or her own jurisdiction. The Punong Barangay likewise exercises the powers and duties concomitant to the position which requires him or her to be privy to the records concerning his or her constituents.

Third. Assuming that respondents are merely residing in their employer's bunk house, it is enough that they actually resided in the place they wish to exercise their voting rights, *i.e.*, in Barangay Punta, San Remigio, Cebu, within the period required by law. To repeat, respondents proved this fact as evidenced by their Certificate of Employment, and Certification of Actual Residency issued by Barangay Chairman Hilari.

In any event, it is settled that property ownership is not among the qualifications enumerated to exercise one's right to vote in a city or municipality.

Section 9 of Republic Act No. 8189 ordains, *viz.*:

Section 9. *Who may Register.* All citizens of the Philippines not otherwise disqualified by law who are at least eighteen (18) years of age, and **who shall**

have resided in the Philippines for at least one (1) year, and in the place wherein they propose to vote, for at least six (6) months immediately preceding the election, may register as a voter.

Any person who temporarily resides in another city, municipality or country solely by reason of his occupation, profession, employment in private or public service, educational activities, work in the military or naval reservations within the Philippines, service in the Armed Forces of the Philippines, the National Police Forces, or confinement or detention in government institutions in accordance with law, shall not be deemed to have lost his original residence.

Any person, who, on the day of registration may not have reached the required age or period of residence but, who, on the day of the election shall possess such qualifications, may register as a voter. (Emphasis supplied)

In *Neo v. Yapha, Jr.*^[3] the Court pronounced that property ownership is **not a requirement to vote** and be voted upon. A **candidate may only be leasing a room or a house, but it does not make him or her any less of a resident of an area.** Likewise, *Jalover v. Osmena*^[4] decreed that to require property ownership would imply that only the landed can establish compliance with the residency requirement.

In fine, petitioners' unsubstantiated allegations pale in comparison to the consistent factual findings and resultant conclusions of the Election Regulatory Board, Municipal Circuit Trial Court, and Regional Trial Court that respondents possess all the qualifications and none of the disqualifications as voters of Punta, San Remigio, Cebu.

Accordingly, I vote for the denial of the petition for lack of merit.

^[1] **Yra v. Abano**, 52 Phil. 380 (1928) [Per J. Malcolm, *En Banc*]; **Rocha v. Cordis**, 103 Phil. 327, 328-329 (1958) [Per J. Bautista Angelo, *En Banc*].

^[2] 686 Phil. 649, 679 (2012) [Per J. Sereno, *En Banc*].

^[3] **G.R. No. 209285** (Notice), June 28, 2016.

^[4] 743 Phil. 825, 841 (2014) [Per J. Brion, *En Banc*].

Date created: October 19, 2023